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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,899	01/08/2002	Joe Freeman Britt JR.	325219.01	5830

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EXAMINER	
STERRETT, JONATHAN G	

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
04/14/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/042,899	BRITT ET AL.	
	Examiner	Art Unit	
	JONATHAN G. STERRETT	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,7-9,21-24 and 27-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,7-9,21-24 and 27-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3 March 2010 has been entered.

The following is a **Non-Final Office Action** in response to the communication received on 3 March 2010. **Claims 1-4, 7-9, 21-24 and 27-35** are pending. (The examiner notes that the last page of claims has claim 34 listed before claim 33.).

Response to Arguments

2. Applicant's arguments have been fully considered but they are moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1-4, 7 and 21-24, 27, 30-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 7630986 Herz (hereinafter **Herz**)

Regarding **Claim 1**, Herz teaches:

1. (currently amended) A computer-implemented method comprising:

sending a request for a return signal to a plurality of user devices via a wireless network;

column 10 line 53-59, the distributed data management with client side proxies means that data is received from the client side in response to requests - this includes wireless signals - see column 9 line 23 - mobile or wireless user).

receiving respective return signals from one or more of the plurality of user devices, each of the return signals indicating a current status of a respective user device and an operational mode of the respective user device;

column 182 line 10 – the system infers what interactions would be of interest to a user based on their location – i.e. thus it receives return signals for each of the user devices. (column 9 line 20-25, the physical location of the mobile users is received and is tracked as part of the profile information for that user).

receiving a survey that is generated at a user device, the survey including an inquiry and selectable responses to the inquiry that are configured to be completed by recipients of the survey; and

column 183 line 15-25, 40-45, Mr A (using the example given) generates a query for Mr B's agent

receiving, along with the survey from the user device, one or more selected characteristics that are attributable to users that are associated with the plurality of user devices, the one or more characteristics being utilized as criteria to identify the recipients of the survey;

column 182 line 5-15, the system compares profiles of individuals to determine if the individuals are a match (i.e. might be interested in meeting). The matching is based on the individuals' profiles (i.e. characteristics of the individual). See also column 183 line 1-10.

automatically selecting a group of user devices from the plurality of user devices based on the users having the one or more selected characteristics and identified as the recipients of the survey, each of the users being associated with a respective user device in the selected group of user devices;

column 183 line 15-25; column 182 line 1-30; column 179 line 1-20, the system uses credentials (i.e. characteristics of users) to determine which other users might be of interest, prior to inquiring of that other user.

forwarding the survey to the selected group of user devices via the wireless network, the survey configured to be completed by a user at a respective user device in the selected group of user devices;

column 182 line 15-25, the system inquires to the other users (i.e. Mr. B) (note column 53 line 15-25 and column 98 line 50-60.

receiving survey responses to the inquiry from one or more of the user devices in the selected group of user devices; and

column 182 line 15-25, Mr B provides a survey response to the inquiry.

forwarding said responses into said network to said first the survey responses to the user device from which the survey was generated and received.

column 182 line 15-25, the response to the inquiry is sent back to Mr A.

see also column 177 line 57-65

Herz teaches an agent making recommendations for a user based on information specified by the user, that is, characteristics specified by the user (i.e. rules and policies – see column 9 line 57-60 – policies (i.e. rules) and profiles of users are used to mediate interactions using agents.) Herz teaches performing automatically what is claimed as being manual, i.e. the agent for the user inquires regarding other users in the geographic vicinity that may be of interest to the user, and then negotiates/communicates with the electronic agents of those other users to arrange a meeting or interaction, rather than manually selecting users to inquire regarding sharing a transaction of some kind.

It would have been obvious to one of ordinary skill in the art to remove the automation of the agent from the system to perform the claimed method steps manually because the elimination of an element or its functions is deemed to be obvious in light of prior art teachings of at least the recited element or its functions (see In re Karlson, 136 USPQ 184, 186; 311 F2d 581 (CCPA 1963)).

Regarding **Claim 2**, Herz teaches

2. (currently amended) The computer-implemented method as recited in claim 1, wherein the current status is a geographical location of the respective user device.

Column 9 line 20-25, the information tracked about a user includes their geographic location (this becomes part of their profile which is then used to determine whether they could interact with others on the basis of their geography). See also column 12 line 20-25; column 34 line 39-41; column 35 line 35-40

Regarding **Claim 3**, Herz teaches

3. (currently amended) The computer-implemented method as recited in claim 1, wherein the current status is a distance from the respective user device to the user device that generates the survey.

Column 98 line 49-53, the system determines physical proximity between two users as part of a condition for whether or not to suggest an interaction between the two users – see also column 107 line 25-30, physical location as a determinant for a meeting between two users (i.e. physical proximity or distance away); Column 178 line 5-10, a decision about meeting between two individuals is based on their location; column 182 line 5-20, a physical meeting is suggested based on distance between two users.

Regarding **Claim 4**, Herz teaches

4. (currently amended) The computer-implemented method as recited in claim 1, wherein the one or more selected characteristics include at least one of an age, gender, or occupation of the users that are associated with the plurality of user devices.

Column 182 line 5-25, the system evaluates two different users (among other users on the system whose profiles may indicate a mutual interest) to determine if matching characteristics indicate the likelihood of a mutual interest. Herz does not teach where the matching aspects of the profile are one of age, gender or occupation, however Official Notice is taken that these aspects are known in the art to be aspects whose similarity indicates individuals might have a mutual interest (e.g. 2 or more people of similar ages, teenagers or retirees; 2 or more people who share similar occupations, e.g. medical professional; e.g. 2 or more people who might be interested in each other due to gender similarities or differences). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Herz's profile similarity matching to have included at least one of age, gender or occupation in matching characteristics because Herz system uses a profile to match individuals according to similarity (or dissimilarity) and the combination would have provided a predictable result through introducing users who have a mutual interest based on age, gender or occupation.

Regarding **Claim 7**, Herz teaches:

7. (currently amended) The computer-implemented method as recited in claim 1, wherein the one or more selected characteristics include a home address of the users that are associated with the plurality of user devices.

Column 182 line 35-40, the home address of the user (i.e. where the user is at) is a characteristic used to determine the possibility of a meeting between Mr. A and B.

Claims 21-24, 27, 30-34 recite similar limitations to those addressed by the rejection of **claims 1-4 and 7** above, and are therefore rejected under the same rationale.

Furthermore regarding **claim 21**, Herz' method executes using software (see column 1 line 15-25).

5. **Claims 8, 9, 28, 29 and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz US 7630986 (hereinafter **Herz**) in view of De Vries U.S. 6,968,179 (hereinafter **De Vries**)

Regarding **Claim 8**, Herz teaches:

8. (currently amended) The computer-implemented method as recited in claim 1, wherein the recipients of the survey are listed in a buddy list associated

with the user device that generates the survey, the method further comprising forwarding the survey to the selected group of user devices that are associated with a respective user that is listed in the buddy list and identified as a recipient of the survey.

Herz teaches a profile where a user may be matched against other users where other users have a similar profile or aspect that suggests the desirability of meeting. Herz further teaches that users of his system have friends with whom they use the system to interact, and that there are layers of disclosure that a user may set to determine whether another individual would be a close associate or not. Herz does not teach the use of a buddy list per se, to generate the survey (i.e. to send the survey to a subset of those on one's buddy list).

De Vries teaches friends meeting each other where the meeting is based on location (column 1 line 20-25) and further where

De Vries teaches mobile presence information (column 2 line 35-40) and a buddy list where users consent to each other being on a buddy list (column 2 line 40-45)

De Vries teaches receiving notifications as to when friends on a particular buddy list has moved or changed status (column 3 line 5-15)

De Vries further teaches that profiles for determining the proximity of other users to a particular user is based upon a number of factors including physical proximity, placement on a buddy list (e.g. friends or work) (column 6 line 53-column 7 line 2).

De Vries teaches that a user can search for other users in close proximity and also based on that other person's inclusion in a buddy list (column 8 line 7-39) and that a user would be notified based on the proximity of other users and inclusion on their buddy list. The user can then inquire of those other users if they are interested in meeting (i..e a rendevous – see column 10 line 44-60).

Thus the use of the buddy list as a discriminating characteristic with which to determine which users can be queried as to whether they wish to meet is shown as being known in the art by DeVries. For this and the various teachings given above, De Vries and Herz are analogous art since both address aspects of mobile pervasive computing, where user's interact with their wireless devices (.eg. PDA, Cell phone) based on the context of what they are doing at a particular moment.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Herz to have included the teachings of De Vries, because it would have provided a predictable result by using a known discriminating factor (i.e. a user's buddy list) to be used as a discriminating characteristic is identifying potential candidates for further interaction. Since the system would be tracking many users at one time in a particular area, one of ordinary skill in the art would recognize the advantages of using a buddy list to further segment available users in an area because the buddy list has individuals with whom a user is a friend or acquaintance (i.e. a buddy).

. Regarding **Claim 9**, Herz does not teach using an address book to determine who to send the survey to. However as noted above in Claim 8, DeVries teaches a buddy list and an address book (see column 13 line 60-65, the list of names mapped to a set of IP addresses is an address book for a user to interact with; see also column 5 line 65- column 6 line 10, users on a buddy list are those that can be queried as to their availability). The rationale to combine DeVries here with respect to a buddy list (i.e. an address book) into the teachings of Herz is the same as for Claim 8 above.

Claims 28, 29 and 35 recite similar limitations to those addressed by the rejection of **Claims 8 and 9** above, and are therefore rejected under the same rationale.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

[PDF] A survey of context-aware mobile computing research

[PDF] from psu.edu G Chen... - 2000 – Citeseer

[PDF] An example of using presence and availability in an enterprise for spontaneous, multiparty, multimedia communications

[PDF] from psu.edu HS Shim, C Chung, M Long, G Patton... - 2nd IP-Telephony ..., 2001 - Citeseer

Providing presence cues to telephone users

[PDF] from psu.edu AE Milewski... - Proceedings of the 2000 ACM conference ..., 2000 - portal.acm.org

US 6798358 Joyce teaches location based content delivery

US 6504503 St Hilaire teaches a peer to peer global positioning system

US 6668177 Salmimaa teaches a method for displaying prioritized icons.

US 6681108 Terry teaches a network identifying entities sharing a common location

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached Monday – Friday from 10-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell, can be reached at 571-272-6737.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4-3-2011
/JGS/

/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623